

17.200

needs. When the period of production is likely to warrant a labor and material costs contingency in the contract price, the contracting officer should normally use an economic price adjustment clause (see 16.203). When contracting for services, the contracting officer—

(1) Shall add the clause at 52.222-43, Fair Labor Standards Act and Service Contract Act-Price Adjustment (Multiple Year and Option Contracts), when the contract includes the clause at 52.222-41, Service Contract Act of 1965;

(2) May modify the clause at 52.222-43 in overseas contracts when laws, regulations, or international agreements require contractors to pay higher wage rates; or

(3) May use an economic price adjustment clause authorized by 16.203, when potential fluctuations require coverage and are not included in cost contingencies provided for by the clause at 52.222-43.

[61 FR 39204, July 26, 1996, as amended at 72 FR 63078, Nov. 7, 2007]

Subpart 17.2—Options

17.200 Scope of subpart.

This subpart prescribes policies and procedures for the use of option solicitation provisions and contract clauses. Except as provided in agency regulations, this subpart does not apply to contracts for

(a) Services involving the construction, alteration, or repair (including dredging, excavating, and painting) of buildings, bridges, roads, or other kinds of real property;

(b) Architect-engineer services; and

(c) Research and development services.

However, it does not preclude the use of options in those contracts.

[61 FR 41469, Aug. 8, 1996]

17.201 [Reserved]

17.202 Use of options.

(a) Subject to the limitations of paragraphs (b) and (c) of this section, for both sealed bidding and contracting by negotiation, the contracting officer may include options in contracts when it is in the Government's interest.

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When using sealed bidding, the contracting officer shall make a written determination that there is a reasonable likelihood that the options will be exercised before including the provision at 52.217-5, Evaluation of Options, in the solicitation. (See 17.207(f) with regard to the exercise of options.)

(b) Inclusion of an option is normally not in the Government's interest when, in the judgment of the contracting officer—

(1) The foreseeable requirements involve—

(i) Minimum economic quantities (*i.e.*, quantities large enough to permit the recovery of startup costs and production of the required supplies at a reasonable price); and

(ii) Delivery requirements far enough into the future to permit competitive acquisition, production, and delivery.

(2) An indefinite quantity or requirements contract would be more appropriate than a contract with options. However, this does not preclude the use of an indefinite quantity contract or requirements contract with options.

(c) The contracting officer shall not employ options if—

(1) The contractor will incur undue risks; *e.g.*, the price or availability of necessary materials or labor is not reasonably foreseeable;

(2) Market prices for the supplies or services involved are likely to change substantially; or

(3) The option represents known firm requirements for which funds are available unless (i) the basic quantity is a learning or testing quantity and (ii) competition for the option is impracticable once the initial contract is awarded.

(d) In recognition of (1) the Government's need in certain service contracts for continuity of operations and (2) the potential cost of disrupted support, options may be included in service contracts if there is an anticipated need for a similar service beyond the first contract period.

[48 FR 42231, Sept. 19, 1983, as amended at 53 FR 17858, May 18, 1988; 56 FR 15150, Apr. 15, 1991; 60 FR 42656, Aug. 16, 1995]

17.203 Solicitations.

(a) Solicitations shall include appropriate option provisions and clauses